



# Physical Therapy Board of California

## Progress Notes

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### ***Making a Difference!***

**How and Why to Become a Member  
of the Physical Therapy Board of California!**

*By Ellen Wilson, PT*

***Have you ever wondered as a physical therapist (PT) how you can give back to your profession and help shape the future of Physical Therapy?***

***Do you know a non-physical therapist interested in public service, who doesn't know how to begin the process?***

The PTBC would like you to consider applying to become a member of the Physical Therapy Board of California (PTBC).

**Board Information:** The PTBC is comprised of seven (7) members appointed by the Governor, Speaker of the Assembly, and the Senate Rules Committee.

- The Governor appoints the four professional members and one public member
- The Speaker of the Assembly appoints one public member
- The Senate Rules Committee appoints one public member

Members are appointed to serve a four-year term, plus a one-year grace period. A member cannot exceed two full terms.

The Board meets four times per year, plus a strategic planning meeting. There may also be additional committee and task force meetings. Members also conduct business with staff via mail. The meetings themselves are usually 1-2 days.

***What does it take to be a great board member?*** It takes an interest in making a difference, a willingness and commitment to actively participate in the process, a lot of patience, courage to voice your opinion (even when it's unpopular), knowing when to compromise, and the ability to see all sides of an issue to form an objective opinion. Of course, you also need freedom in your schedule to attend meetings around the state.

So, how does one apply to become a member?

- Professional members (PTs) can access the application on the Governor's website at [www.governor.ca.gov](http://www.governor.ca.gov), (then select "appointments", "serving in the administration"...then you'll see the on-line application form.) OR, you can call or write the Governor's office appointment secretary to indicate your interest.
- Public members can also apply using the above website, or contact their state Senator or Assemblyman.

Once you've applied, you may be contacted for an interview, and the final selection will be made. If you have further questions about being a board member, please visit the PTBC's website at [www.ptb.ca.gov](http://www.ptb.ca.gov)!

As a physical therapist and a consumer of California, I cannot begin to express how important it is to be an active member on your profession and to take part in protecting consumers throughout our State.

# Laws vs. Regulations... what's the difference?

*By Rebecca Marco*

**Laws** are created by statutes which originate from legislative bills originally introduced by either the Senate or the Assembly. For example, in 1953 the Physical Therapy Practice Act (Act) was created by Chapter 1823 as a result of AB 1001. The Act can be found beginning with § 2600 in the Business and Professions Code (B&P Code) and governs the practice of physical therapy. The Act, statutes, laws and B&P Code *could* be considered synonymous.

**Regulations** are standards (see the Rulemaking Process below) adopted as rules by the Physical Therapy Board of California to implement, interpret, or make specific the law enforced or administered by the Physical Therapy Practice Act. They must be approved by the Office of Administrative Law, and filed with the Secretary of State and signed by the Governor.

Regulations have the same effect as law. Failure to comply with either the laws or regulations could result in issuance of a citation and/or fine or discipline.

Official copies of the laws and regulations governing the practice of physical therapy can be found at [www.leginfo.ca.gov](http://www.leginfo.ca.gov) for the laws and [www.oal.ca.gov](http://www.oal.ca.gov) for the regulations. Copies of both the laws and regulations can also be found on the board website.

## The Rulemaking Process *By Rebecca Marco*

The Administrative Procedure Act (APA) sets forth the procedures that as a state agency, the Physical Therapy Board of California (board) must follow when adopting regulations. See Government Code section 11340-11359. Among other requirements, it requires the board to give public notice, to receive and consider public comments, to submit regulations and rulemaking files to the Office of Administrative Law for review to ensure compliance with the requirements of the APA, and to have the regulations published in the California Code of Regulations.

## Adoption of Section 1398.26.1 Satisfactory Documentary Evidence of Equivalent Degree for Licensure as a Physical Therapist

*By Christina Metzen*

Business and Professions Code Section 2653 requires an applicant who was issued a diploma by a non-accredited physical therapist education program to furnish documentary evidence to the Board that he or she has completed a professional degree equivalent to that issued by a U.S. accredited physical therapist educational program.

Section 1398.26.1 (which went into effect August 4, 2005) identifies Entry Level Education Equivalency Reviews (ELEERs) as the only tools that provide satisfactory documentary evidence. The Board identified five significant changes in the education requirements that have occurred since 1955. Therefore, five tools (ELEERs) were developed, each reflecting the minimum requirements of these periods. The five ELEERs were incorporated by reference, and are available to view on the Board's Website, <http://www.ptb.ca.gov>. This regulation not only defines documentary evidence, but will ensure application of a fair standard for those individuals educated outside the USA.

Since the ELEER will identify any education deficiencies, Board staff will no longer summarize educational deficiencies for the applicant. Furthermore, the Board will no longer accept an application without a credential evaluation report that clearly states that the applicant has met the educational requirements for physical therapist licensure in California (i.e. no deficiencies per the appropriate ELEER). If/when an applicant acquires additional education to satisfy deficiencies, they will be required to submit a new evaluation report which reflects the additional education.

## **Amendment of Section 1398.38**

### ***Criteria for Approval of Physical Therapy Facilities to Supervise The Clinical Service of Foreign Educated Applicants***

*By Christina Metzen*

The purpose of this amended regulation is to provide consistent and uniform physical therapy facility requirements for facilities electing to supervise foreign educated physical therapists during their period of clinical service. In order to be approved to supervise the clinical service, this regulation (which became effective May 20, 2005) requires a facility to submit two completed forms to the Board. These forms are incorporated by reference (the 11-1-99 version of the APTA Clinical Site Information Form & the Board's Notice of Intent to Supervise a Foreign Educated Physical Therapist). In completing these forms, the facility certifies that it has the staffing, clinical experiences, and clinical instruction to provide physical therapy clinical experiences for the foreign educated physical therapist license applicant. Both forms must be complete and signed in order for the physical therapy facility to be approved by the Board. Per Section 1398.26.5, beginning January 8, 2008, every Center Coordinator of Clinical Education must be certified as a clinical instructor by the American Physical Therapy Association (APTA), and all Clinical Instructors must be APTA certified by January 1, 2010.

## ***Providing Online Physical Therapy Advice by Debi Mitchell***

A physical therapist is not authorized to provide physical therapy treatment without having a diagnosis from a diagnostician per Section 2620 of the Business and Professions (B&P) Code. Therefore, a physical therapist cannot provide physical therapy treatment or give treatment advice directly to consumers without having a diagnosis and performing an evaluation of the patient.

A physical therapist licensed in California can provide the following advice via Internet or via telephone in the State of California.

- A physical therapist can instruct a person how to obtain physical therapy care in the State of California.
- A physical therapist can cite possible range of treatment available.
- A physical therapist can offer wellness advice.
- A physical therapist can offer resources on where to research information on physical therapy.
- A physical therapist can provide general information regarding medical conditions that are not meant to be specific to that individual.

Prior to a physical therapist rendering physical therapy advice the Board recommends you verbally notify the inquirer or provide a written "disclaimer statement" that indicates the information that is being provided is for "Advice Only" for individuals in California. The Board is unable to speak on behalf of the other state physical therapy regulatory boards.

# WHAT HAPPENS WHEN A COMPLAINT IS FILED WITH THE PTBC?

Upon receipt of a written complaint, the Consumer Protection Services Program (CPS) determines if the complaint is within the jurisdiction of the board. Once jurisdiction is established the following occurs:

The complaint is acknowledged within 10 days of receipt and an analyst reviews the complaint to determine:

- the type of complaint  
*Alleged sexual misconduct or negligence (injury to patient) are handled on an expedited basis and are immediately forwarded to the Department of Consumer Affairs' Division of Investigation (DOI);*
- if more information is needed regarding the complaint;
- if patient medical records and/or other pertinent material are necessary.

The complaint may then be forwarded to an expert consultant for review to determine:

- whether the complaint warrants further investigation and possible onsite review of patient records with an investigator;
- whether the complaint should be closed.

Upon completion of final investigation by DOI

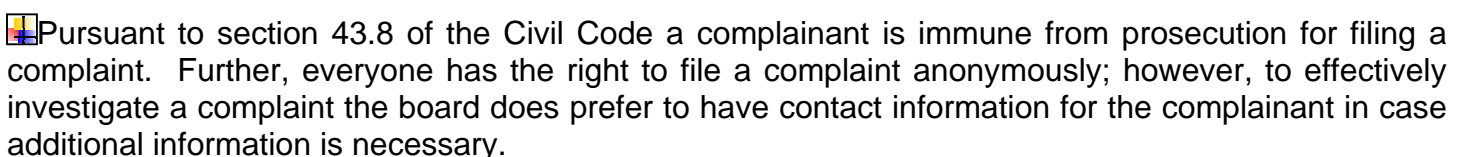
- If Violation(s) exist.  
Violations supported by clear and convincing evidence will be forwarded to the Office of the Attorney General for filing of administrative action against the licensee.  
If criminal violations are found, DOI may file a complaint with the District Attorney's Office on behalf of the PTBC.  
If less egregious violations are confirmed, an administrative citation may be issued.

If violation is not substantiated case will be closed.

Where formal action is taken by the board, the subject may face sanctions which may include a simple fine, probation, suspension, or even complete revocation of one's license to practice.

The complaint process is not limited to patients being treated by the professional but can be useful to any health care provider in reporting concerns regarding improper treatments, billing issues, and aiding and abetting the unlicensed practice of physical therapy. The PTBC would like to emphasize that if a licensee has knowledge of a possible violation of the Physical Therapy Act, it is his or her responsibility to report it to the Board. Failure to report this could be interpreted as "aiding and abetting" the illegal practice.

Everyone has the right to file a complaint without fear of negative repercussions. The board provides complainants the option of requesting the complaint be identified as confidential to prevent release of personal information regarding the complainant.

 Pursuant to section 43.8 of the Civil Code a complainant is immune from prosecution for filing a complaint. Further, everyone has the right to file a complaint anonymously; however, to effectively investigate a complaint the board does prefer to have contact information for the complainant in case additional information is necessary.

# Legal vs. Competent *by Dennis Ellingson, PT*

**Are you legal?** Licensed physical therapists and physical therapist assistants have a detailed formula for the legal practice of physical therapy. This includes, among others, the Business and Professions (B&P) Code Sections 2600 through 2696 (Physical Therapy Practice Act) and the California Code of Regulations, Title 16, Division 13.2, sections 1398 through 1399.85. The B&P Codes and regulations establish the minimums that are needed to serve the consumers of physical therapy services in California. These statutes and regulations detail what one can and cannot do as a physical therapist or physical therapist assistant in California. These codes and regulations are the legal authority to treat physical therapy clients and patients.

**What is competence?** Having the legal authority does not necessarily qualify as meeting the standard of practice if the therapist or assistant does not have the competence to perform the techniques which they offer. "Being legal" doesn't necessarily equate with "being competent". Webster's Dictionary defines "competent" as, "Having requisite or adequate ability or qualities", and the Oxford American Dictionary (OAD) as, "Having the ability, knowledge, or skill to do something successfully". The OAD defines "knowledge" as, "1. The fact or condition of knowing something with familiarity gained through experience or association. 2. Acquaintance with or understanding of a science, art, or technique." The American Physical Therapy Association's Guide for Professional Conduct states, "...competence shall be maintained through on-going self-assessment, education, and enhancement of knowledge and skills".

**Can you demonstrate your competence?** What experience do you have? What courses have you taken (or taught) to advance your skills? Are you performing techniques based on the minimum requirements, but that require advanced training or education? A member of the public presented a recent treatment issue at the May 2005 meeting of the PTBC. The argument to the Board was that physical therapists were utilizing manual lymphatic drainage techniques; resulting in injuries to the lymphedema patients they were treating. The public member cited seminars, continuing education offerings, and extensive training programs that should be required in order to attain the knowledge and skill required for this technique. Without this additional learning, the therapists and assistants were incompetent and causing harm. He acknowledged that the use of massage and treatment of patients with lymphedema are part of the legal practice of physical therapy, but that each therapist or assistant doing so should be demonstrably competent before attempting such techniques. Remember, this is just one of many advanced techniques being performed by physical therapists today.

Are you practicing legally? Are you competent in the techniques you offer? Do you have the experience and or education required to perform them with competence? Do you have records to document and support the basis for your believed competence? If you can answer yes to these questions, then you will be better prepared to treat your patients, and better prepared to defend yourself legally, should the need arise. Patients, and their safety, are the number one concern of physical therapists and physical therapist assistants. Treat your patients competently!

## Diversion Hotline

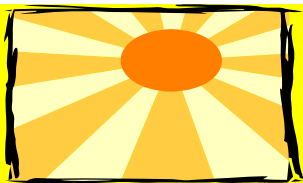
Do you know an employer or associate who is a physical therapist or physical therapist assistant who is struggling with a drug or alcohol problem?

Do you have a problem?

If so, the PTBC has a voluntary and confidential program to help licensees overcome the disease of addiction.

Just pick up the telephone and call Maximus at  
**1-800-522-9198**





## What's on the Horizon!

By Rebecca Marco

The PTBC with the Department of Consumer Affairs, Office of Examination Resources (OER) conducted workshops to ensure that the questions on the California Law Examination are directly relevant to the application of the laws and regulations that govern the practice of physical therapy currently. There were approximately 45 subject matter experts (SME) who participated in the workshops to assist in either the development of the examination outline or to develop examination questions in a group with test development specialists from OER. Test development specialists trained the SME's in the technical, professional, and legal standards that serve as specific guidelines for examination development. The process was a cycle in which questions were written by the SME's in one workshop, reviewed and edited by test development specialists and editors for structure and format, and then reviewed and revised by other groups at subsequent workshops. The new examinations will be administered early 2006.

The PTBC is seeking support from the Joint Committee on Boards, Commissions and Consumer Protection (JCBCCP) through Sunset Review to revise the Physical Therapy Practice Act to add clarity and to reflect changes in the profession; if successful the new Act would be in effect in January 2007. Some additional issues presented to the JCBCCP in the board's Sunset Review Report are:

Should the PTBC...

- eliminate licensure of physical therapist assistants based on equivalency education and experience?
- implement, as a pilot program, a system whereby the Attorney General and the Office of Administrative Hearing costs for the physical therapy license-related cases are "rolled forward"?
- include representation of a physical therapist assistant on the Board and request an additional public member appointment to the Board?
- require continuing competency as a condition of license renewal?
- permit physical therapists to use a prefix, suffix or affix to indicate their academic degrees?
- exempt from licensure those who are licensed in other states to enable them to teach and treat competing athletes of visiting teams?
- deny licensure to applicants who are required to register as sex offenders pursuant to section 290 of the Penal Code?
- **clarify that a diversion program participation fee may be charged not to exceed the actual administration costs?**
- adjust fees to provide a sound financial base for the future?

### New Fees...

#### Effective October 24, 2005 –

- \* The initial license fee is \$75.

#### Effective January 1, 2006 –

- \* The fee for physical therapist and physical therapist assistant applications postmarked on or after January 1, 2006 will be \$75.
- \* The fee for foreign graduate applications postmarked on or after January 1, 2006 will be \$125.
- \* The biennial renewal fee for physical therapist and physical therapist assistant licensees that expire on or after January 1, 2006 will be \$150 and the delinquency fee will be \$75.

**NOTE: The fee is based on the date of expiration and NOT the date of payment.**